

United States Dist. Court  
for the middle Dist of Penna

William Branch  
Plaintiff

: Civil action No. 1:CV-00-1728  
:

vs.

: (Judge CONNER)  
:

MR Russian et. al.,  
Defendant

:  
:

Brief in support of motion to  
Deny Summary Judgement

FILED  
HARRISBURG, PA

JAN 23 2004

MARY E. DUNDREA  
Per [Signature]  
County Clerk

If it Please's this Honorable and august Court  
Inmate CF-3756 WM Branch Humbly Prayes this  
Noble Court Deny Defendants motion for  
Summary Judgement. for the Reason Stated  
blow

1. There are material issues
2. it has been conceded by defence in  
Their Brief
3. Rules of Federal Rules of Civil Procedure  
#56(f) Bars the Granting of Summary  
Judgement until discovery is completed
4. I can establish a causal link between my  
Protected activities and the adverse actions  
Taken against me by Staff
5. Timing: farrell vs. Planters Life Savers co.  
206 F3d 271, 280 (3rd Cir 2000) (stating that  
Suggestive timing is Relevant to Causation in  
Retaliation case's) misconduct written near  
Parole Hearing or Staffings for Parole or Raise's  
I can show that the defendant conspired to Punish me.

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BRIEF IN SUPPORT of motion to Deny Summary JudgementWoods v. Smith 60 F 3d 1161 (5th Cir 1995)

[6] Prison Law Key 4(10.1), 13(4)

PRISON officials may not Retaliate against OR harass inmates for exercising Right of access To Courts OR for complaining to SUPERVISOR about guards misconduct.

[8] Civil Law Key 135 Prison disciplinary action motivated by Retaliation for PRISONER'S exercise of constitutionally protected Right is actionable even if act, when taken for different Reason, might be Legitimate.

The defendants have already Conceded in their Support Brief for Summary Judgement That I have Satisfied the Two prong's of Prisoner Page 17820 There for I will focus on the causal link between his protected activities and the adverse action.

What Russian does not say is that prior to his writing a misconduct alleging I threaten him I had spoken to Capt Griffin, I wrote a Request to MR Friedman and to Supt Collieran Dated 7-15-00 Ex AA-6 and a Grievance Dated 7-20-00 which was (No # issued) NEVER answered I also wrote a Second Grievance which they/Staff did give me a number and answered while I was in the RHU, but they allow MR Friedman to investigate my Grievance # WAM-0232-00. I charged MR Friedman with Conspiracy and he should not have Been allowed to investigate himself (a Red light should go on) in each instance the staff has used Klandestine Tactics to deny me due Process

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BRIEF IN SUPPORT OF MOTION TO DENY SUMMARY JUDGMENT

and to Retaliate against me for exercising my first amendment to Redress the Government and Reporting their mis conducts.

In this setting where the People I Report to (ask for Relief) don't want me to Report any mis conducts [a person of sound mind would have dropped/stop any court action and Reporting any mis conducts].

BROOKS Vs. Andolina 926 F.2d 1266 (3d CIR 1987)  
Inmate who was sentence in disciplinary proceeding to 30 days punitive Segregation for writing letter complaining that female Guard had searched one of his visitors in a very seductive manner brought § 1983 action against prison officials

Court of appeals held: disciplinary action taken against inmate violated his first amend, Fourteenth amend. Rights.

Fed. Rules of Civil Procedure Rule 56 (f)

I have established w/ the help of the defence that there are material errors in my Pleadings.

A Cause by which Relief may be Granted  
Therefore according to the 3<sup>rd</sup> CIR Appeals

Court Summary Judgement should not be

Granted untill Discovery has been completed

Citing: Gabriel ST SURIN Vs. VIRGIN ISLANDS Daily  
21 F3d 1309 at 1314 (3<sup>rd</sup> CIR. 1994).

Because I am in forma Pauperis I can not afford to copy and pay postage as the PRISON has ~~not~~ systematically kept my Pay at .19¢.

BRIEF IN SUPPORT OF MOTION TO DENY SUMMARY JUDGMENT

To hinder my access to court G/O KARWOWSKI was my Block G/O and he removed a inmate who cleaned the Bath Rooms at night and Refused to give me Razors at the 3 months interval as D.O.C. Policy States... I know I will not be able to meet all the files the COURT Requires Therefore I am asking this august court to appoint me counsel as the instant action is exceedingly complex and the PRISON Law Library is Profoundly deficient to pursue this complex litigation in that a/ the PRISON Law Library Restricts the Petitioners access to the Law Library, B/ the PRISON Limits the Time the Petitioner can utilize the Law Library C/ the materials in the PRISON Law Library are incomplete ~~and~~ ~~are~~ emaciated, emasculated, and consummately inadequate to pursue this intricate legal action

In light of the aforesaid Petitioner Respectfully Request this Honorable and august Court to Grant the appointment of counsel, Denial of Summary Judgement, a stay OR Deferment of action until such time Petitioner is Released from Prison at which time The Petitioner will Resume the action within 60 days

Proof of Service

Ms Mosely esq Deputy attorney  
General Strawberry Sq 15FL  
Harrisburg Pa 17120

Unsworn Declaration

I affirm under penalty of the law that the above is true.

Date 1-16-04

William Church OF-3756

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